

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Paul Rees,**  
Appellant,

**v.**

**Polk County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-77-0342**  
**Parcel No. 240/00739-038-029**

On April 30, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Paul Rees was self-represented and participated by telephone. Assistant Polk County Attorney Ralph Marasco, Jr. represented the Board of Review in person at the hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Paul Rees, owner of property located at 12331 NW 111th Place, Granger, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property is a one-story, dwelling built in 2010 with 1603 square feet of total living area; a 192 square-foot, patio; a 228 square-foot, open porch; a full, unfinished basement; and a 1347 square-foot, attached garage. It is listed as good construction quality (Grade 3+05) and in normal condition. The site is 0.632-acres and located in the Jester Lakes Estates development.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$263,000, representing \$59,100 in land value and \$203,900 in dwelling value.

Rees protested to the Board of Review on the ground available for a claim of fraud in the assessment. Rees wrote “Lots are being sold for under \$30,000 [...]” It would appear Rees was not only making a fraud claim under Iowa Code section 441.37(1)(a)(5), but essentially a claim that the property was assessed for more than authorized by law under section 441.37(1)(a)(2). The Board of Review also recognized this claim. (Appraiser Analysis). The Board of Review denied the petition.

Rees then filed his appeal with this Board. He claims the property’s land value is too high, but does not challenge the dwelling value. He believes the land should be reduced to \$27,000 and the total assessment should be \$230,900.

Rees testified that he purchased the property in November 2010 for \$277,050, but is only appealing the land assessment. Rees reports the land previously sold for \$33,500. According to Rees, the developer went under and the properties went back to the bank. The bank subsequently sold the other lots in the development for \$26,000 to \$27,000. In his opinion, Iowa law dictates the true value of property is what it sells for, and he believes the Polk County Assessor and Board of Review are committing fraud by assessing properties for more than their sales prices.

Rees provided a list of comparable lots in the development to support his claim. The Board of Review submitted the properties record cards for these properties. It also submitted a chart identifying Rees’ selected properties as unplatted, bank sales, and/or foreclosures. The information is summarized in the following chart.

Address	Sale Date	Sale Price	Assessed Land Value (AV)	Square Feet (SF)	AV/SF	Foreclosure	Bank Sale	Unplatted
Subject	08/25/10	\$33,500	\$ 59,100	27510	\$2.15	Y	Y	N
12357 NW 111th	03/15/12	\$27,000	\$ 55,300	20585	\$2.69	N	Y	Y
12336 NW 111th	02/07/12	\$27,000	\$ 60,100	29187	\$2.06	N	Y	Y
11149 NW 123rd	08/27/08	\$35,000	\$ 62,500	23106	\$2.70	N	N	Y
11167 NW 123rd	7/11/08	\$67,800	\$ 56,300	22193	\$2.54	N	N	Y
12221 NW 111th	07/09/13	\$26,000	\$ 44,100*			Y	Y	N
11122 NW 121st Ct	06/26/12	\$27,000	\$ 58,400	25863	\$2.26	Y	Y	N
11123 NW 121st Ct	04/17/10	\$26,000	\$ 57,600	24053	\$2.39	Y	Y	Y
11182 NW 121st Ct	06/27/12	\$32,000	\$ 58,300	26809	\$2.17	N	N	Y
12128 NW 111th	05/7/13	\$22,000	\$ 58,500	21634	\$2.70	Y	Y	Y
12276 NW 111th	05/21/10	\$33,900	\$ 49,400*			Y	Y	N
12338 NW 111th	10/31/08	\$39,900	\$ 61,400	22143	\$2.77	N	N	Y
12370 NW 111th	08/24/09	\$37,900	\$ 48,100*			N	N	N
12440 NW 111th	09/24/10	\$35,000	\$ 60,100	20020	\$3.00	Y	Y	N
11114 NW 123rd	10/10/12	\$27,000	\$55,900	21676	\$2.58	Y	Y	Y
11130 NW 123 <sup>rd</sup>	07/16/08	\$34,900	\$56,400	22481	\$2.50	N	N	Y
12397 NW 111th	04/16/10	\$33,500	\$59,000	27231	\$2.17	Y	Y	N

The assessments marked with an asterisk are unimproved lots. The assessed value per-square-foot of the improved lots varies depending on the property's size, ranging from \$2.15 to \$3.00 per-square-foot. Rees' lot is the second largest and has the lowest price per-square-foot (\$2.15). We note that, all else being equal, the price per-square-foot of a property will decrease as a property's size increases. *See* APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE pp. 40 (13th ed. 2008) (discussing the law of decreasing returns). Further, we note that Rees has no equity claim before this Board, and thus a comparison of assessments is of little relevance to Rees' other claims.

The Board of Review also analyzed the sales Rees submitted. (Exhibit C). It noted all were vacant lots at the time of sale. Rees' property is listed as a bank sale, a foreclosure sale, and an unplatted lot. A sale by a lender or foreclosure sale may be an abnormal sale under Iowa law, and may not be representative of the properties' fair market value without adjustment for this factor.

Amy Rasmussen, Deputy Assessor, testified on behalf of the Board of Review. She reviewed the seventeen sales and reported the majority of the sales were not normal, arm's-length transactions; and rather reflected distress value, not market value. Additionally, Rasmussen indicated some of the transactions were sales of multiple parcels or multiple sales of the same property, which would ordinarily not be considered normal. She also testified land values increase when a parcel is improved because of the additional expenses for utilities, water/sewer/septic, grading, and landscaping. The sales price of an unimproved lot and its assessment is, therefore, not comparable to the subject site, which is improved. The IOWA REAL PROPERTY APPRAISAL MANUAL 2008, 2-4, distinguishes between an improved site and an unimproved site as follows: "When a site is described as 'improved' it means it is used in conjunction with an existing structure and has the necessary site improvements. These site improvements include grading and topsoil, landscaping, trees, and shrubs, etc. An 'unimproved' site will lack some or all these site improvements." For this reason, we do not find this site similar to the subject site for equity purposes.

We note although the majority of the sales in the development were abnormal, there was one normal sale of an unimproved lot in 2012 for \$32,000. The lot, located at 11182 NW 121st Court, is 0.615-acres, improved, and assessed at \$58,300. It is similar to the subject in size, location, and assessed value.

### ***Conclusions of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* However, the "sales price of the subject property in a normal sales transaction . . . does not *conclusively* establish [market] value." *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996). Conversely, sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

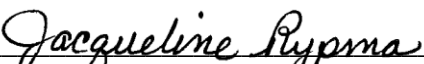
In this case, Rees claimed there was fraud in the assessment under section 441.37(1)(a)(5). Fraud is a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. *Black's Law Dictionary*, Third Edition 300 (1996). Rees' allegation is largely a criticism of the Assessor's Office valuing his land, and the land of other lots in the development, at a value greater than their purchase prices, which on the whole include many abnormal transactions. This does not amount to purposeful misrepresentation or intentional concealment of

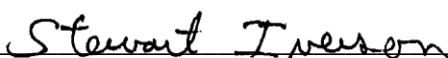
information. To the contrary, the record indicates the assessments have been completed in accordance with Iowa law.

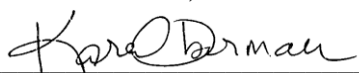
Rees' claim can also be interpreted as an over assessment claim, and the Board of Review additionally considered this ground in his protest. In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Rees failed to provide any recent comparable, arm's-length sales to support his claim. The vacant sales, including the subject's 2010 lot sale, have abnormal sales conditions that may have distorted the sale prices. Foreclosures and lender sales are not considered normal transactions and require adjustments to be used as comparable sales. § 441.21(1)(b). In addition, even if the purchase price of Rees' unimproved lot had been a normal sales transaction, the subject's sales price would not *conclusively* establish its market value. *Riley*, 549 N.W.2d at 290. Moreover, he also failed to show the subject property as a whole was valued for more than authorized by law. *See* MANUAL 2-2 ("[T]he final analysis for an improved property must be as a unit").

The Appeal Board orders the subject property's assessment of \$263,000, as determined by the Polk County Board of Review, as of January 1, 2013, is affirmed.

Dated this 23rd day of May 2014.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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